IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 21493 of 2007(H)

PETITIONER:

ROSILY VARGHESE, D/O.VARGHESE,
AGED 43 YEARS, ATTUPURAM HOUSE,
EAST CHERANALLOOR, ERNAKULAM - 683 544.
BINDER GRADE II, GOVT.PRESS ERNAKULAM,
PRINTING DEPARTMENT.

BY ADV. SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENTS:
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1. STATE COMMISSIONER,
STATE COMMISSIONERATE FOR HANDICAPPED,
ROOM NO.13, SECRETARIAT ANNUX,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REP. BY THE DIRECTOR,
PRINTING DEPARTMENT, GOVERNMENT CENTRAL
PRESS, TRIVANDRUM.

3. THE DEPUTY SUPERINTENDENT,
GOVERNMENT PRESS, ERNAKULAM.

4. DEPUTY SUPERINTENDENT, VIGILANCE AND
ANTI CORRUPTION BUREAU, ERNAKULAM.

5. SECRETARY, HEALTH DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C)No.21493 of 2007 H

Dated this the 12th day of July, 2007.

JUDGMENT

The petitioner submits that she is a physically handicapped person. She was initially appointed provisionally in the Government Press, Ernakulam as Binder Grade II. Later, under the relevant orders directing regularisation of physically handicapped persons, the petitioner was also regularised in service by Ext.P1 order dated 11.12.1996. Ext.P2 Medical Certificate issued by the District Medical Board would show that the petitioner suffers from 40% disability. Later, other physically handicapped persons raised complaints against the regularisation of the petitioner and others on the ground that they are not physically handicapped persons eligible for regularisation. So, the competent authority issued notice to the petitioner and others. Those notices were challenged before this court by filing O.P.No.11836/99 and connected cases. The said original petition was disposed of by Ext.P3 judgment, directing the 2nd respondent to take a final decision in the matter, after considering the objections of the petitioner herein and others and affording them an opportunity of being heard. The petitioner submits, while so,

she has been served with Ext.P4 notice dated 27.6.2007 by the 1st respondent, the State Commissioner of Handicapped, Thiruvananthapuram. This writ petition is filed challenging Ext.P4 on the ground that the preliminary enquiry proposed under Ext.P4 is unsustainable.

2. This court has already ordered by Ext.P3 to look into the representations of the petitioner and take a final decision by the 2nd respondent. So, the present proceedings initiated by the 1st respondent is without jurisdiction, it is submitted. So, the petitioner prays for quashing Ext.P4.

3. Going by Ext.P4, it could be seen that the same is a notice under Section 63 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. Section 62 thereof authorises the Commissioner to look into the complaints with respect to matters relating to deprivation of rights of persons with disabilities. So, the enquiry contemplated under Ext.P4 is entirely different from the enquiry pending before the 2nd

respondent. So, I feel that the action taken by the 1st respondent under Section 63 is within his jurisdiction.

4. Therefore, I am not inclined to interfere with Ext.P4. But, the petitioner may place all the materials before the 1st respondent to enable him to take a just and proper decision. All the contentions of the petitioner regarding the genuineness of her disability are kept open.

Writ petition is closed, subject to the above observation.

Sd/-

(K.BALAKRISHNAN NAIR)

JUDGE

sk/

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P.S. To Judge